a reasonable "need to know."[9/] In no other Commission proceeding were onerous restrictions like those contained in the Bureau's Procedural Order imposed, and the BOCs have not demonstrated to the contrary.

As MCI noted in its Application for Review, at 2, the Bureau's Procedural Order "contains no discussion whatsoever of the specific restrictions at issue or of the Bureau's rationale for adopting them." Moreover, MCI noted that no similar restrictions were included in the Bureau's "other" Model Nondisclosure Agreement that governs disclosure to the independent auditor.[10/] None of the BOCs has succeeded in providing a convincing rationale to justify the Bureau's arbitrary restrictions on intervenor access, or in explaining those factors which justify a separate, and less restrictive, set of conditions for auditor access.

Because the Bureau provided no explanation for the restrictions it imposed on intervenors' access to competitively sensitive information, the BOCs can provide nothing more than sweeping assertions that the restrictions are "fair and

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9/ Comments, at 2-3. In the Procedural Order, at para. 31, the Bureau cited the Shared Network Facilities Arrangement (SNFA) investigation as one in which the Commission imposed a protective order which granted MCI access to confidential materials subject to conditions which limited MCI's ability to reveal that information to third parties or use it for competitive purposes. As Sprint has demonstrated in its Comments, neither the SNFA Protective Order in the MCI SNFA complaint proceeding, 4 FCC Rcd 6767 (1989) nor the nondisclosure agreements in other Commission complaint proceedings contain restrictions comparable to those imposed by the Bureau in the Procedural Order.

10/ Application for Review, at 4-5.

reasonable" (Bell Atlantic, at 3), "not unreasonable" (Pacific, at 3), or represent a "measured approach to disclosure." (SW Bell, at 4). The BOCs' conclusory assertions are clearly not an adequate substitute for the Bureau's failure to provide a reasoned explanation for the restrictions.

None of the BOCs has provided a convincing explanation for the Bureau's imposition of a different, and less restrictive, set of conditions on the independent auditors. Two of the BOCs (Bell Atlantic, at 2-3, and Pacific, at 4) mention the independent auditor only in passing.

Although the Bureau, in the order under review, failed to explain its rationale for subjecting the independent audit firm to less restrictive nondisclosure provisions than it imposed on intervenors, two of the BOCs proffer explanations of their own. SW Bell, at 2, claims that "[t]he auditors are not similarly restricted since they are not in a comparable position to use the competitively sensitive information for their own internal purposes." This purported "rationale" is purely speculative. SW Bell does not -- and cannot -- cite any Bureau discussion of this issue, for there was none. Moreover, SW Bell's underlying premise -- that auditors have no incentive to misappropriate the BOCs' competitively sensitive information for their own use -- is questionable. On information and belief, several of the "Big Six" accounting firms, including Arthur Andersen & Company, engage in telecommunications consulting, either directly or through subsidiaries or affiliates. The audit firm may find the

"competitively sensitive information" of substantial value in its consulting practice.

U S WEST's attempt to supply the rationale lacking in the Bureau order is likewise based on sheer speculation and is equally unpersuasive. U S WEST's discussion of this issue is contained in a single footnote (note 5 on p. 2 of its opposition). It suggests that MCI is "confused over the relative roles of the independent auditor and the intervenors in this proceeding." In the remainder of the footnote (which is cryptic, at best) U S WEST appears to suggest that intervenors are properly subject to more restrictive nondisclosure conditions than the auditors, because "only the intervenors have legal standing to seek...judicial review...." To the extent that U S WEST correctly characterizes the Bureau's function as one of establishing a system of "handicaps" for participants in future litigation, MCI is clearly confused. It has been operating under the assumption that the purpose of the ONA access tariff investigation was to determine whether the proposed rates are lawful.

Not one of the BOCs has responded directly to MCI's contention that the Bureau acted unreasonably in arbitrarily adopting the "one attorney, two expert" limitation proposed by Bellcore in the vastly different context of on-site inspection of cost models, a proposal which the Bureau otherwise soundly rejected.[11/] Likewise, none of the BOCs has specifically

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11/ Application for Review, at 5. While there may be valid reasons to limit the number of persons with access to confiden-

(continued...)

responded to MCI's contention, Id. at 4, that it was arbitrary and unreasonable for the Bureau to prescribe a Model Nondisclosure Agreement that, in one paragraph, authorizes disclosure of competitively sensitive information to an intervenor's "clerical staff" and revokes that authorization in the very next paragraph.

No better evidence of the arbitrariness of the Bureau's restrictions can be found than in the BOCs' treatment of the question of whether the Procedural Order should be modified to allow an intervenor's clerical personnel to assist the one attorney and two experts with typing, filing and duplicating tasks involving competitively sensitive information. Two of the BOCs believe it would be reasonable to allow as many as three individuals to assist with clerical tasks.[12/] One would limit each intervenor to two additional persons to assist in clerical functions.[13/] The fourth BOC, with a blanket assertion that "the restrictions placed on intervenors' access to the confidential materials were not unreasonable," appears to suggest that intervenors' attorneys and experts should be required to

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11/ (...continued)
tial material in the context of on-site inspections, any limit on the number of persons who may review documents and software furnished to an intervenor is clearly arbitrary.

12/ U S WEST, at p. 3: "provided that the number of support staff (paralegals and secretaries only) be limited to no more than three per intervening party." Southwestern Bell, at p. 2: "no objection to allowing up to three of MCI's clerical staff to assist MCI's attorney and experts in typing and photocopying efforts for MCI's work product in this matter."

13/ Bell Atlantic, at p. 1, n. 3.

forego clerical assistance altogether.[14/]

Clearly, any effort to arrive at an appropriate limitation on the number of persons who may review proprietary data is inherently arbitrary, as the Bureau's efforts to establish one in this proceeding has shown. There is no evidence that the protective orders and nondisclosure agreements in Commission proceedings -- which contain no such limitations -- have resulted in the unauthorized disclosure of proprietary data. Accordingly, there is no need to retain the "one attorney, two expert" limitation prescribed by the Bureau.[15/]

The Bureau's unprecedented "no-copy" policy is equally arbitrary and unreasonable, as is clearly demonstrated in the

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14/ Pacific, at p. 3. MCI notes that, despite the Commission's efforts to incent the BOCs to streamline their operations via price caps, Pacific appears unwilling to have its attorneys forego clerical assistance or otherwise streamline their own operations to an extent comparable that characterized by Pacific as "not unreasonable" for intervenors. Pacific's five-page Opposition lists the names of three attorneys, and a fourth individual, presumably a clerical employee, signed the accompanying certificate of service.

15/ The arbitrariness of any such limitation is further evidenced by U S WEST's handling of the Bureau's Model Nondisclosure Agreement. U S WEST's assertion, at p. 2, that MCI did not ask for more attorneys and experts to review the cost models is factually incorrect. After learning that U S WEST had agreed (as described in fn. 6 of U S WEST's opposition) to permit a second Sprint attorney to review the U S WEST cost model (SCM), MCI did request that U S WEST to agree to allow a third MCI cost accounting expert to review SCM, citing difficulty in arranging the travel schedules for two experts, who frequently testify in state regulatory proceedings. Counsel for U S WEST stated that she felt MCI's request was "different" from Sprint's and that she was unwilling to agree to any other changes until she had conferred with the other BOCs. Apparently, the other BOCs (who have no proprietary interest whatsoever in U S WEST's SCM) did not agree, because U S WEST subsequently refused to agree to MCI's requested modification.

efforts of several BOCs to defend it. MCI noted that the Bureau policy, literally construed, does not permit intervenors to install (copy) cost model software onto computer hard disks, thereby denying intervenors access to even the "redacted" software, and unreasonably limits intervenor access to hard copy materials. U S WEST (at 3) states that it does not object to furnishing up to three copies, provided U S WEST (and not the intervenors) can perform the software installation and make the copies. SW Bell (at 3) wants Bellcore to make all the copies (though no copies would be made for intervenors' clerical staff). Bell Atlantic (at pp. 1, fn. 3) states that it "provided MCI with SCIS information on computer disks on the assumption that it would be loaded into computers" and that it would not object to MCI making enough copies of software and documentation for each authorized individual to have a copy, provided that each copy would be subject to the same conditions as the original. Here again, the Bureau's existing policy is inherently arbitrary. Any effort to arrive at a single "number" acceptable to all parties appears doomed to failure. The simplest solution -- that followed in previous Commission proceedings and reflected in proposed rule 1.731 (c) in CC Docket No. 92-26 -- may ultimately prove the best.

Two of the BOCs suggest that it is not unreasonable for the Bureau to limit intervenor access to the BOC cost models because intervenors will have "a full opportunity...to participate in the

audit process."[16/] The BOCs ignore the fact that the very restrictions imposed by the Bureau on intervenors' direct participation in the ONA access tariff investigation likewise unreasonably inhibit intervenors' freedom to devote personnel and other resources to the formulation of questions to be submitted to the auditor and otherwise participate in the audit process. Only if intervenors are freed from arbitrary restrictions such as those imposed in the Procedural Order and permitted to review unredacted or less thoroughly redacted software and documentation will they have "a full opportunity...to participate in the audit process."

MCI's request that the Commission address issues related to the discussion and exchange of competitively sensitive information among intervenors was met with an interesting range of BOC responses. It was ignored by Bell Atlantic and by Pacific. SW Bell acknowledges MCI's contention that "permission is implicitly given by...the nondisclosure agreement" (SW Bell, at 3), but then proceeds to attack MCI's request for clarification as "an attempt to pick away, bit by bit, at the Bureau's disclosure plan." (Id.) U S WEST asserts that MCI "has provided no legal basis [for]...such a major deviation from the Bureau's model Agreement," (U S WEST, at 4), conveniently ignoring both MCI's assertion that exchange of competitively sensitive information among intervenors is implicitly authorized and U S WEST's own unilateral "major deviation" from the terms of

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16/ Pacific, at 4. See, also, Bell Atlantic, at 3.

the "Bureau's model Agreement" to accommodate the vacation plans of one of Sprint's attorneys. (See fn. ***, supra.) U S WEST inveighs against the unspecified "possible harmful effects that this type of 'cross-talk' might engender."[17/] The BOC oppositions clearly generate much heat and no light on this issue. They have provided no basis whatsoever for denial of MCI's request that the Commission make explicit that which is already implicit in the Bureau's model Agreement, and expressly authorize intervenor representatives to discuss competitively sensitive information with their counterparts.

17/ U S WEST, at 4. U S WEST apparently views "cross-talk" (its pejorative term for the exchange of information) as potentially harmful only when it occurs among intervenors. There has apparently been a good deal of information exchanged among the BOCs on a basis other than the "need to know," as evidenced by U S WEST's footnote 9, at p. 5. There, U S WEST names both those intervenors who entered into nondisclosure agreements for review of U S WEST's SCM model, and those who have executed nondisclosure agreements concerning the Bellcore SCIS model, in which U S WEST has no proprietary interest.

Conclusion

WHEREFORE, MCI respectfully urges the Commission to deny the BOCs' oppositions and grant MCI's Application for Review in the above-captioned proceeding.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

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Its Attorneys

Dated: April 1, 1992

APPENDIX D

file: ONA Access

RECEIPT

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEB - 8

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)
	)
Commission Requirements for Cost Support Material To Be Filed with Open Network Architecture Access Tariffs	)

TO: The Commission

REPLY TO OPPOSITIONS

MCI Telecommunications Corporation (MCI) hereby replies to the oppositions to its Petition for Reconsideration of the Commission's SCIS Disclosure Reconsideration Order in the above-captioned proceeding[1]. As MCI demonstrated in its Application for Review of the SCIS Disclosure Order[2], the inadequate disclosure authorized by the series of orders at issue here has prevented MCI's and other intervenors' meaningful participation in the ONA Tariff Investigation[3], thus violating the Communications Act of 1934, the Administrative Procedure Act and constitutional due process requirements.

Sprint (like MCI, a ratepayer-intervenor in the related ONA access tariff investigation, CC Docket No. 92-91) filed comments in support of MCI's petition in this proceeding. Sprint agrees that reconsideration of the SCIS Disclosure Reconsideration Order

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[1] FCC 93-531 (released Dec. 15, 1993).

[2] 7 FCC Rcd. 1526 (Com. Car. Bur. 1992).

[3] Open Network Architecture Tariffs of Bell Operating Companies, CC Docket No. 92-91.

is appropriate, given that

> the Commission apparently has misread or overlooked substantial portions of MCI's original Application for Review of the SCIS Disclosure Order and of the comments filed by Sprint and others in support of such application.

Sprint Comments, at 1.

The significance of the limitations on intervenor participation created by the series of SCIS Disclosure Orders extends far beyond this proceeding. As long as these limitations stand, the BOCs will cite these decisions as precedent "in future proceedings as grounds for limiting intervenors' access to information needed to evaluate the reasonableness of the BOCs' rates and service offerings." Sprint at 2. This has already occurred in the Commission's investigation of 800 Data Base Access Tariffs, CC Docket No. 93-129, where a joint petition by the BOCs sought Commission approval to grant intervenors only limited access to CCSCIS:

> ...release, to interested parties that execute a non-disclosure agreement, of edited documentation.

Order, (DA 94-99) January 31, 1994, at para. 5. [The terms of disclosure CCSCIS in that proceeding have not yet been resolved.]

As Sprint observed in its Comments, at 2 n. 1, the very first Bureau Order addressing the use of SCIS to support BOC ONA rates acknowledged that making cost support materials filed with tariffs available for public inspection "reflects the fundamental interest in administrative decisions reached upon a public record." (Ameritech TRP Waiver Order, released October 18, 1991,

at paras. 10-11.) It is not too late for the Commission, upon reconsideration, to recognize that the series of SCIS Disclosure Orders ignored this fundamental interest, and deprived intervenors of an opportunity to meaningfully participate in this precedent-setting Section 204 investigation.[4]

MCI's concurrently-filed Reply to Oppositions in CC Docket No. 92-91 addresses the claims of the BOCs that intervenors, including MCI, were "afforded a meaningful opportunity to participate" in the ONA access tariff investigation. Inasmuch as the vast majority of those claims are merely repeated in the BOC's Oppositions to MCI's petition in this proceeding[5], MCI has attached a copy of its CC Docket No. 92-91 Reply to this Reply and incorporates the responses contained therein by this reference.

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[4] By limiting intervenors' access to cost models and related cost support materials, the Commission has assumed the substantial burden of reviewing and evaluating these materials, without the benefit of interested parties' review and evaluation. By limiting the ability of "private attorneys general" to participate in the tariff review process, the Commission has isolated itself from those willing and able to assist it in rendering decisions in the public interest.

[5] See BellSouth Opposition at 2, incorporating its CC Docket No. 92-91 Opposition by reference; SW Bell Opposition at 3, incorporating its CC Docket No. 92-91 Opposition; NYNEX Opposition at 2-3, a verbatim repetition of pages 3-4 of its CC Docket No. 92-91 Opposition. Ameritech's 1 1/2 page Opposition contains no substantive arguments.

Allnet, another intervenor, submitted comments supporting both of MCI's petitions for reconsideration. Therein, Allnet aptly stated:

> The bottom line in this proceeding is that: 1) there was no reason for requiring any party to enter into non-disclosure agreements to view the highly redacted versions of the materials, and 2) to the extent the unredacted versions of the materials contained confidential information, those materials should have been made available to any party that signed a non-disclosure agreement.

Allnet Comments (CC Docket No. 92-91), January 27, 1994, at 1.

Conclusion

Accordingly, the SCIS Disclosure Reconsideration Order should be reconsidered and the ONA Access Tariff Investigation reopened under revised non-disclosure provisions which permit MCI and other intervenors to review the SCIS/SCM cost models and other materials in their unredacted form. Without such access, meaningful intervenor participation in the precedent-setting ONA Access Tariff Investigation is not possible.

Respectfully submitted,

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Dated: February 8, 1994

APPENDIX E

net revenue test for new services.[45/]

MCI believes however, that both contentions do not justify above cost pricing. The net revenue test clearly can no longer be a justification for pricing since it was eliminated in the New Services Reconsideration Order on August 6, 1992.

In addition, NYNEX has provided no justification or support for its claim that arbitrage would occur if interstate Three Way Calling was priced at cost. Moreover, as noted by AT&T in its petition seeking suspension of the BOC ONA tariffs, the Commission has recently reiterated that the Communications Act provides it exclusive jurisdiction to regulate the terms, rates and conditions of interstate communications services.[46/] Therefore, even if offering cost-based interstate Three Way Calling rates would impinge on the states regulatory domain, those regulatory bodies cannot "dictate the terms of interstate access services offered by NYNEX."[47/]

III. MCI'S NON-PUBLIC EVALUATION OF THE BOC COSTING PROCESS

[45/] NYNEX Direct Case at Appendix A, pp. 6-7.

[46/] See, Operator Services Providers Of America, 6 FCC Rcd 4475, 4476-77 (1991).

[47/] In The Matter Of ONA Access Charge Tariff Filings, AT&T Petition For Suspension And Investigation, filed November 26, 1992 at 20, n. *.

MCI participated fully (at least to the limited extent ratepayers were authorized by the Commission to participate) in the non-public portion of this proceeding in an attempt to determine the validity of the BOC's costing process as conducted, and, to the extent possible, determine the potential for this process to be exploited in a way that could allow "costs" to be generated to support predetermined anticompetitive pricing strategies. To that end, MCI has evaluated the mechanized cost models as provided under Redactions I and II. Also, MCI has also evaluated the Report of Arthur Andersen to the Commission (hereafter, the "Andersen Report").

The SCIS model is a computer-based costing tool developed by Bellcore and used by each of the BOCs to develop the cost support for the BSE rates filed in the BOC tariffs.[48/] As part of a larger cost development process, SCIS is a mechanized model for processing the input information supplied by the BOC analyst performing the cost study, and as with any mechanized model, the accuracy of the results is dependent on the quality and accuracy of the inputs. In order to validate the BOC costing process, therefore, it is necessary to evaluate two key areas:

> First, does the mechanized model, through its pre-programmed equations and algorithms, produce outputs that accurately reflect, given the input data provided, the underlying

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[48/] US West uses both SCIS and its own SCM model to develop BSE costs. Because the models are conceptually and functionally similar, MCI's concerns regarding the use of SCIS will generally also apply to SCM.

investment[49] required of the BOC to produce the switching feature or function in question? In other words, given a valid set of inputs, is the internal processing accuracy of the model sufficient to ensure valid outputs?

And of equal importance, if the output of the model is found to be sensitive to the initial assumptions and input values used, are the values of these inputs reliably developed and verified to ensure that the final results of this process represent the best possible estimate of the BOC's cost to provide the feature? In other words, does this process give the cost analyst the potential to select from a range of unverified input values, known to affect output values in significant and predictable ways, so that a BOC's strategically-developed rates can be justified as "cost-based?"

It is MCI's position that even if there is reasonable assurance that the model performs its internal calculations without introducing significant error, the possibility of introducing error into the process exists at the non-mechanized points of the process. At these points, the analyst must select a large number of essential input values; a process that is not documented by the BOCs and which was not evaluated in the Andersen Report. If the values assigned to these inputs, or the relationships among the values of several inputs, are found to affect the model's output in a systematic way, then the Commission cannot be assured that the BOC cost support developed through this process constitutes effective protection against anticompetitive pricing.

In order to provide the Commission with data useful in determining the degree to which the potential for such misuse of

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[49]It is important to note that SCIS and SCM outputs are stated in terms of investment; costs based on these investments are calculated external to the model.

the costing process exists, MCI acquired a "redacted" copy of the SCIS software and documentation under the terms and conditions established. The non-disclosure agreements prescribed by the Commission and executed by MCI as a condition precedent to obtaining any access whatsoever to the BOC cost models imposed substantial restrictions on the use to which the information could be put by intervenors, as well as restricting the number of individuals representing each intervenor that would have access to either the software or the documentation. These restrictions went far beyond those reasonably required to satisfy Bellcore's interest in protecting its intellectual property and to protect the switch manufacturers from disclosure of technical and cost information related to their products. Even after MCI executed these onerous non-disclosure agreements, the materials provided for review were redacted to such a degree as to make them unfit for any meaningful examination.[50/]

As MCI described to the Staff at that time,[51/] most of the redactions made to both the software and the dqcumentation appear to have been made for the purpose of preventing intervenors from

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[50/]As an example of the overzealous nature of the redactions performed, Bellcore chose to remove general information regarding the functioning of the SCIS model from the materials provided subject to the proprietary agreements, even though it had recently provided identical materials - on a non-proprietary basis - in similar state investigations.

[51/]For a complete description of MCI's concerns regarding Redaction I, please see MCI's March 9, 1992 letter to Stanley P. Wiggins contained in the public record.

using and understanding the model, rather than to protect the proprietary data of the switch manufacturers. Specifically, the formats of the model's input screens, designed to assist the user in data entry, were modified to make the successful entry of input data, even on a trial-and-error basis, nearly impossible. The documentation of the calculations, equations, and descriptions of variables - essential to an understanding of the model but unrelated to the proprietary data of the switch manufacturers - were removed, even when the values initially present were clearly labeled "for illustrate purposes only and not to be interpreted as typical values." This type of redaction allows an intervenor to observe, but makes it nearly impossible to document, the wide latitude that the cost analyst enjoys when selecting input values to the model.

Even an experienced SCIS user who is familiar with the input screens in their original form would not have been able to successfully perform a series of "runs" of the model in order to determine the sensitivity of SCIS outputs to variations in these input values, however. In place of the actual values of the "table data" switching characteristics, Bellcore (reportedly because the switch manufacturers insisted that proprietary data be withheld from intervenors notwithstanding the extensive protections provided by the non-disclosure agreements prescribed by the Commission) substituted "randomized" (rather than masked or otherwise hidden) values in the version of the model provided to intervenors. As a

result, an intervenor who persevered long enough to decode the various mutations of the input screens was ultimately rewarded with meaningless output values.

Finally, MCI observed in its evaluation of the Redaction I materials that US West's SCM model had been provided with its "sensitivity function" disabled. While it is unclear why such a function would need to be disabled in order to protect the proprietary information of the switch manufacturers, it is even more unclear why, in a model designed to take cost inputs as they independently exist and calculate an output value, a "sensitivity function" need be designed into the model, presumably at some expense. An analyst faced with the task of finding input values would generate cost estimates necessary to support a predetermined BSE rate, however, would obviously find such a function highly useful.

In order to make more useful information available to intervenors, Redaction II was ordered by the Commission. While the "randomized" data from Redaction I was reportedly presented as actual data in Redaction II, other changes were also made to both the software and documentation. Specifically, elements essential to the functioning of the model were removed or masked, again making meaningful evaluation of the model by intervenors, including sensitivity analysis, impossible. According to Bellcore's July 13, 1992 ex parte letter to the Commission comparing twenty-one

elements across Redaction I and Redaction II, four potentially positive (i.e., additional disclosure, less redaction) changes were made, eight negative (i.e., less disclosure, additional redaction) changes were made, and nine of the listed elements were not changed. Clearly, in order for intervenors to perform a meaningful analysis of the SCIS costing process, and to provide the Commission with data useful in its evaluation of the BOC's costing methods and the potential for misuse, it is essential that a minimum set of elements be present in the same redaction. Without access to such a minimally functional model, the participation of intervenors in this portion of the proceeding is limited to providing a listing of well-documented suspicions regarding the potential for misuse of the costing process by the BOCs. While both "motive" and "method" can be readily established, an evidentiary showing by intervenors of "opportunity" was successfully thwarted by Bellcore in Redactions I and II under the guise of "protection of vendor proprietary information."

The procedures adopted and employed by the Bureau in the course of this tariff investigation have undermined intervenors' rights to meaningfully participate in the review of the BOCs' initial ONA access tariffs. There is something clearly wrong with the process when the Bureau is willing to meet behind closed doors with the BOCs, Bellcore and the switch manufacturers to determine what intervenors will and will not be permitted to see, but, at the same time, is unwilling to recommend prompt action on MCI's

Application for Review seeking (among other things) clarification that intervenors may "compare notes" on the precious little information they are permitted to see.[52/]

Fortunately (although it is incomplete in many areas), the Andersen Report demonstrates that such opportunity for misuse exists.[53/] Generally stated, the contents of the Andersen Report support the following conclusions:

1. When using SCIS and SCM, the cost analysts running the model have considerable input and costing choices; these parameters ultimately determine the service or feature investments produced as output by the models. These choices include a wide array of company-specific data assumptions, and changes in these input parameters can be used to create variation in the model results.

2. The sensitivity analysis performed by Andersen describes the

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[52/] The Bureau's inaction on MCI's Application for Review concerning information sharing apparently emboldened Bellcore and the BOCs to impose even more onerous restrictions on the intervenors' access to Redaction II. That is, the BOCs insisted that intervenors execute a "Notice of Compliance" pledging that they would not discuss the contents of Redaction II with other intervenors as a condition precedent to review of Redaction II.

[53/] Although useful in this specific context, the contents of the Andersen report have limited value in a more general evaluation of the BOC costing process for two reasons. First, the Andersen review focuses primarily on the question of whether the SCIS model makes accurate internal calculations given a set of specified inputs. While the flexibility enjoyed by the analyst when choosing among possible input values and relationships is acknowledged in the Report, Andersen conducted no investigation into the methods used to determine input values, and did not attempt to ascertain whether the BOC costing process based on the SCIS model had or could be used to support a predetermined rate. Second, the data, sensitivity analysis results, and conclusions of the Andersen review remain subject to nondisclosure agreements. As a result, MCI's arguments in this section are restricted to general descriptions. Specific cites to the Andersen Report are contained in Appendix A to this pleading, which is being filed under protective cover.

effects of changes in these input parameters to the overall variation in reported costs. Of the six categories of BOC-controlled input parameters evaluated, all six were described as significant or consistently important to the reported output of the model.

The latitude available to the BOC cost analyst when selecting the assumptions and values to be input into the model, and the demonstrated sensitivity of the model outputs to variation of these input parameters, combine to create a clear opportunity for the BOCs to use the SCIS/SCM-based costing process as a means of supporting independently derived, non "cost-based" rates. The Andersen Report's conclusion that SCIS accurately calculates investment outputs based on a given set of user-defined inputs does not mitigate this opportunity. If the Commission allows the BOCs to develop cost support for BSE rates by utilizing a SCIS-based process - a process which the Andersen Report describes as granting the BOCs considerable choice regarding selection of the input parameters that are shown in each sensitivity analysis to significantly affect the output - it will effectively be granting the BOCs the "costing flexibility" needed to support a strategically-determined rate structure. In such an environment, ONA would provide no protection against BOC monopoly abuse.

APPENDIX F